

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jack Collins, III,

Civil No. 11-CV-19 (SRN/AJB)

Plaintiff,

ORDER

v.

Dakota County District Court,

Defendant.

Jack Collins, III, 3860 Hamilton Street, Apartment 6, Burnsville, Minnesota 55337, pro se.

Thomas C. Vasaly, Minnesota Attorney General's Office, 445 Minnesota Street, Suite 1100, St. Paul, Minnesota 55101, for Defendant.

SUSAN RICHARD NELSON, United States District Judge

This matter is before the Court on the Report and Recommendation ("R&R") of Chief Magistrate Judge Arthur J. Boylan dated March 31, 2011 [Doc. No. 18]. In the R&R, Chief Magistrate Judge Boylan recommended that this Court grant Defendant's Motion to Dismiss. Plaintiff filed a "memorandum in opposition" to the Motion to Dismiss [Doc. No. 19] and several other documents. The Court will construe these submissions as objections to the R&R.

According to statute, the Court must conduct a de novo review of any portion of the Magistrate Judge's opinion to which specific objections are made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). Based on that de novo review, the Court adopts the R&R and grants the Motion to Dismiss.

I. BACKGROUND

Plaintiff Jack Collins filed a form complaint alleging federal question jurisdiction based upon a notice of sentence expiration and restoration of civil rights. It appears that Plaintiff was incarcerated by the State of Minnesota at some time in the past, but is not currently in prison. As the R&R notes, this restoration of civil rights may be part of the basis for Plaintiff's claims here: "[t]he essence of [Plaintiff's] memorandum appears to be plaintiff's objection to being made to go in and out of state prison and county jail on level 2 sex offender charges after having his civil rights restored." (R&R at 2.) Plaintiff also alleges that police misused his cochlear implants, perhaps to eavesdrop on him. (See, e.g., Memorandum of Law at 2 (Doc. No. 19); Argument (2) at 1 (Doc. No. 22).)

II. DISCUSSION

Chief Magistrate Judge Boylan recommended the dismissal of Plaintiff's claims because the State of Minnesota and agencies thereof, such as the Defendant, are absolutely immune from lawsuits in federal court. Plaintiff does not address or acknowledge this immunity in any of his post-R&R submissions.

Sovereign immunity is a constitutional mandate that no state can be subject to lawsuits in federal court without its consent or explicit cancellation of that immunity by Congress. U.S. Const. amend. 11; see also Monroe v. Ark. State Univ., 495 F.3d 591, 594 (8th Cir. 2007) (Eleventh Amendment bars suit against state agency for any kind of relief). Dakota County District Court is a part of the State and as such, is absolutely immune from suit. There is also no indication that the State has waived its immunity with respect to suits such as Plaintiff's, or that the nature of Plaintiff's claims somehow requires the abrogation of that immunity. See Larson v.

Kempker, 414 F.3d 936, 939 n.3 (8th Cir. 2005) (“Eleventh Amendment immunity bars a § 1983 lawsuit against a state agency or state official in official capacity even if the entity is the moving force behind the deprivation of the federal right.”). Thus, Defendant is absolutely immune from the claims in this lawsuit.

III. CONCLUSION

Plaintiff’s claims may not be brought in federal court.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Chief Magistrate Judge Boylan’s Report and Recommendation (Doc. No. 18) is **ADOPTED**;
2. Defendant’s Motion to Dismiss (Doc. No. 3) is **GRANTED**;
3. Plaintiff’s Motion to/for 609.165 Minn. Statutes Section – H.F. No. 763 (First Engrossment) (Doc. No. 8) is **DENIED**;
4. Plaintiff’s Motion for Guidance for Industry and F.D.A. Staff (Doc. No. 14) is **DENIED**; and
5. Plaintiff’s claims are **DISMISSED with prejudice**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 18, 2011

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge